



**Steve Ellis
Vice President of Programs
Taxpayers for Common Sense**

**Testimony before the Forests and Forest Health Subcommittee,
Resources Committee
United States House of Representatives**

Hearing on H.R. 3505

February 12, 2004

**Testimony of Steve Ellis, Vice President of Programs,
Taxpayers for Common Sense
before the
Forest and Forest Health Subcommittee, Resources Committee,
United States House of Representatives
on H.R. 3505**

February 12, 2004

Good morning Chairman McInnis, Congressman Inslee, and other distinguished members of the Subcommittee. I am Steve Ellis, Vice President of Programs at Taxpayers for Common Sense (TCS), a national, non-partisan budget watchdog group. I would like to thank you for inviting me to testify at this hearing regarding H.R. 3505 which would amend the Bend Pine Nursery Land Conveyance Act to specify the recipients and consideration for conveyance of the Bend Pine Nursery.

Taxpayers for Common Sense strongly opposes H.R. 3505. This bill, introduced in November 2003 by Congressmen Greg Walden (R-OR), would sell approximately 185 acres of Forest Service land to the Bend Metro Park and Recreation District (Bend Parks) in Deschutes County, Oregon for a price of \$3,505,676. This price is \$2.3 million less than the value of the lands as assessed by an appraisal done for the Forest Service. In a bizarre twist, H.R. 3505 directs the sale of the land at more than a 20% discount - \$1 million less than the lowest appraised value of the lands. A 2001 appraisal commissioned by Bend Parks found that the land is worth \$4.5 million. This \$1 million price break was not even requested by Bend Parks in a July 2003 letter to the Forest Service regarding the land sale. Clearly, H.R. 3505 seeks to get a special deal for Bend Parks while forcing taxpayers to swallow a payment of \$2.3 million less than the appraised value of the lands.

H.R. 3505 subverts a market approach to land sales. A cornerstone concept of a capitalist society is that a sale occurs when sellers and buyers reach a mutually beneficial price and terms. The Bend Pine Nursery Land Conveyance Act set up just such occasion, enabling the Forest Service to sell the land at a competitive price and giving Bend Parks the right of first refusal. H.R. 3505 seeks to turn a market based approach on its head and direct the Forest Service to sell the land for below market values, even below what the buyer was willing to pay. Essentially, this is state intervention in the market.

Land Sales Should Provide a Fair Return on Taxpayers' Investment

Unfortunately, H.R. 3505 is just the latest example of the problems with the federal land exchange and sale system. The Forest Service and the Bureau of Land Management "are both authorized by law to sell land and are directed by law to receive at least fair market value when they do so. . ."¹ In fact, the General Accounting Office (GAO) documented numerous cases in which the federal government has failed to get full value for the

¹ General Accounting Office. *BLM and the Forest Service: Federal Taxpayers Could Benefit More from Land Sales*. GAO-01-882. September, 2001.

parcels of land they are selling, specifically in areas where there is pressure to develop land.²

Taxpayers for Common Sense favors privatizing or devolving certain federal assets in appropriate circumstances. Under fair terms and conditions, both U.S. taxpayers and local interests can benefit from such transfers and sales. However, TCS believes that land exchanges and sales should be done administratively rather than through the legislative process. Additionally, the administrative process should be revamped to be fully transparent and serve taxpayer, not private, interests. A legislative process lacks a mechanism for public input and scrutiny and raises the specter of political influence dictating final outcomes. With a functioning administrative process, the legislated land sales should not exist. Congress should, however, exercise oversight responsibilities when necessary to ensure that questionable land sales and exchanges are fully investigated.

Taxpayers for Common Sense has been concerned with land exchanges and transfers for years. In 1998, TCS also testified about land transfers and exchanges before the Water and Power Subcommittee. Then as now, TCS urged that taxpayers deserve a fair return on the public's investment and should receive a fair price for projects.

TCS wants the federal government to adhere to the following principles when selling public assets:

- **Make sure it is in the taxpayers' best interest.** There may be cases where the best government action is to hold onto its assets. For example, it may be appropriate for the federal government to maintain assets that are important for or have a role in relationships between states or in treaties with other nations.
- **Get the best value for the asset.** If the federal government does decide to transfer federal lands to non-federal ownership, taxpayers deserve a fair return on their investment and should receive a fair, market price for those lands.
- **Make appraisals available prior to completing land sales.** Under many circumstances, the public will not see the appraisal of federal or nonfederal lands to be exchanged or sold until after the deal is complete. This leaves the public with little recourse to affect the land exchange. Secrecy is bad policy and hurts the public trust in the process. Instead, appraisals should be a matter of public record prior to the signing of land exchange and transfer deals. By making the federal land appraisal process more transparent, BLM and the Forest Service can get more public buy-in for the end result, thereby reducing controversy and concerns around pending land exchange and transfer deals.

² General Accounting Office. *BLM and the Forest Service: Federal Taxpayers Could Benefit More from Land Sales*. GAO-01-882. September, 2001.

Specific Taxpayer Concerns Regarding H.R. 3505

Under H.R. 3505, Bend Metro Park and Recreation District will purchase 185 acres of public lands for \$3.5 million. In 2001, Bend Parks had an appraisal of the Pine Nursery lands conducted. The result was an appraised value of \$4.5 million. Two years later, after following the required NEPA review and after spending more than \$300,000 on hazardous materials clean up of the lands to be conveyed, the Forest Service also had the land appraised. The appraised value was \$5.8 million.

In a July 18, 2003 letter to the Forest Service, Bend Parks acknowledges the difference in appraised value of \$1.3 million and seeks to negotiate a price for the lands. On September 4, 2003, the Forest Service responded to the Bend Parks letter stating that the “valuation of \$5,800,000 prepared by Healy Company remains the Agency-approved market value.” The Forest Service goes on to state that at the time of the Bend Parks appraisal the final determination of lands to be sold had not even been resolved. Once that was done, hazardous waste cleanup had to be conducted with the necessary \$300,000 financing not being available until 2003. The Forest Service then gave Bend Parks until October 23, 2003 to accept the Forest Service’s offer of \$5.8 million or waive Bend Parks’ right of first refusal, at which point the Forest Service could sell it competitively on the open market.

H.R. 3505, introduced in November 2003, fails to legitimately respond to the Forest Service’s offer of \$5.8 million and would force the Forest Service to sell the land to Bend Parks for \$3.5 million, \$1 million less than the lowest appraised value of the lands. This \$1 million price break was not even mentioned by Bend Parks in its July 2003 letter to the Forest Service. Clearly, the bill seeks to get a special deal for Bend Parks while forcing taxpayers to swallow a payment of \$2.3 million less than the appraised value of the lands.

Conclusion

In conclusion, H.R. 3505 raises numerous taxpayer concerns related both to this specific land sale and to the federal land sale system in general. Taxpayers for Common Sense believes that land exchanges and sales should be done administratively rather than legislatively. With this in mind, the administrative system needs to be revamped in order to add more transparency to the system. Appraisals should be available prior to the completion of land sales, exchanges, or transfers in order to give taxpayers and the public an opportunity to fully understand the value of the lands to be exchanged or sold. Without public scrutiny of the Bend Park land sale appraisals, taxpayers would not have been aware of attempts to sell public lands for \$2.3 million less than the appraised value.

Taxpayer lands should not be sold to non-federal entities without taxpayers receiving a return on their investment. This legislation would sell land to Bend Parks at \$2.3 million below the appraised value. If Bend Parks wants to purchase this land, it should be willing to do so at the most recent appraised value, rather than at a more than \$2 million discount at the expense of federal taxpayers.

A loss of a few million dollars may not seem like much when we have a \$520 billion deficit staring us in the face. But with deficits for as far as the eye can see, we can't afford to be taking millions of dollars out of the treasury's pocket. It all adds up.

Thank you again for the opportunity to testify today and I would be happy to answer any questions you might have.

Supplemental Information Sheet

Name: Steve Ellis, Vice President of Programs

Organization: Taxpayers for Common Sense
651 Pennsylvania Avenue SE
Washington, D.C. 20003

Telephone: (202) 546-8500 x126

Fax: (202) 546-8511